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**Introduced by Senator Lowenthal**

February 23, 2009

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An act to amend Section 25205.5 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 231, as introduced, Lowenthal. Hazardous waste: generator fees.

Existing law requires a generator of hazardous waste to pay the State Board of Equalization a generator fee for each generator site for each calendar year, unless the generator has paid a facility fee or received a specified credit for each specific site for that calendar year. The generator fee is determined pursuant to a base fee rate multiplied in a specified manner determined by the amount of waste generated during the prior calendar year. Existing law sets the base fee rate at \$2,748 for the 1997 calendar year and requires the board to adjust the base fee rate annually to reflect changes in the cost of living. The generator fee is required to be deposited in the Hazardous Waste Control Account.

This bill would specify that the base fee rate is \$3,815 for the 2008 calendar year.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25205.5 of the Health and Safety Code
- 2 is amended to read:
- 3 25205.5. (a) In addition to the fee imposed pursuant to Section
- 4 25174.1, ~~every~~ a generator of hazardous waste, in the amounts
- 5 specified in subdivision (c), shall pay the board a generator fee for

1 each generator site for each calendar year, or portion thereof, unless  
2 the generator has paid a facility fee or received a credit, as specified  
3 in Section 25205.2, for each specific site, for the calendar year for  
4 which the generator fee is due.

5 (b) The base fee rate for the fee imposed pursuant to subdivision  
6 (a) is ~~two thousand seven hundred forty-eight dollars (\$2,748)~~  
7 *three thousand eight hundred fifteen dollars (\$3,815)*.

8 (c) (1) Each generator who generates an amount equal to, or  
9 more than, five tons, but less than 25 tons, of hazardous waste  
10 during the prior calendar year shall pay 5 percent of the base rate.

11 (2) Each generator who generates an amount equal to, or more  
12 than, 25 tons, but less than 50 tons, of hazardous waste during the  
13 prior calendar year shall pay 40 percent of the base rate.

14 (3) Each generator who generates an amount equal to, or more  
15 than, 50 tons, but less than 250 tons, of hazardous waste during  
16 the prior calendar year shall pay the base rate.

17 (4) Each generator who generates an amount equal to, or more  
18 than, 250 tons, but less than 500 tons, of hazardous waste during  
19 the prior calendar year shall pay five times the base rate.

20 (5) Each generator who generates an amount equal to, or more  
21 than, 500 tons, but less than 1,000 tons, of hazardous waste during  
22 the prior calendar year shall pay 10 times the base rate.

23 (6) Each generator who generates an amount equal to, or more  
24 than, 1,000 tons, but less than 2,000 tons, of hazardous waste  
25 during the prior calendar year shall pay 15 times the base rate.

26 (7) Each generator who generates an amount equal to, or more  
27 than, 2,000 tons of hazardous waste during the prior calendar year  
28 shall pay 20 times the base rate.

29 (d) The base rate established pursuant to subdivision (b) was  
30 the base rate for the ~~1997~~ 2008 calendar year and the board shall  
31 adjust the base rate annually to reflect increases or decreases in  
32 the cost of living, during the prior fiscal year, as measured by the  
33 Consumer Price Index issued by the Department of Industrial  
34 Relations or by a successor agency.

35 (e) The establishment of the annual operating fee pursuant to  
36 this section is exempt from Chapter 3.5 (commencing with Section  
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

38 (f) The following materials are not hazardous wastes for  
39 purposes of this section:

1 (1) Hazardous materials ~~which~~ *that* are recycled, and used onsite,  
2 and are not transferred offsite.

3 (2) Aqueous waste treated in a treatment unit operating, or ~~which~~  
4 *that* subsequently operates, pursuant to a permit-by-rule, or  
5 pursuant to Section 25200.3 or 25201.5. However, hazardous waste  
6 generated by a treatment unit treating waste pursuant to a  
7 permit-by-rule, by a unit ~~which~~ *that* subsequently obtains a  
8 permit-by-rule, or other authorization pursuant to Section 25200.3  
9 or 25201.5 is hazardous waste for purposes of this section.

10 (g) The fee imposed pursuant to this section shall be paid in  
11 accordance with Part 22 (commencing with Section 43001) of  
12 Division 2 of the Revenue and Taxation Code.

13 (h) (1) A generator who pays a hazardous waste generator  
14 inspection fee to a certified unified program agency, ~~which~~ *that*  
15 is imposed as part of a single fee system and fee accountability  
16 program that are both in compliance with the requirements of  
17 Section 25404.5, shall be eligible for a refund of all, or part of, the  
18 generator fee paid pursuant to subdivision (a) if both of the  
19 following conditions apply:

20 (A) The generator received a credit pursuant to Section 43152.7  
21 or 43152.11 of the Revenue and Taxation Code for fees paid for  
22 hazardous waste generated in 1996.

23 (B) The department certifies, pursuant to subdivision (b) of  
24 Section 25205.9, that funds are available to pay all or part of the  
25 refund.

26 (2) A generator who is eligible for a refund pursuant to  
27 paragraph (1) shall submit an application for that refund to the  
28 board by September 30 following the fiscal year during which the  
29 generator paid the generator fee pursuant to subdivision (a). An  
30 application for a refund postmarked after September 30 is void,  
31 shall not be processed by the board, and shall be returned to the  
32 applicant.

33 (i) (1) A generator who transfers hazardous materials to an  
34 offsite facility for recycling at that offsite facility or another offsite  
35 facility shall be eligible for a refund of all, or part of, the generator  
36 fee paid pursuant to subdivision (a) if all of the following  
37 conditions apply:

38 (A) The offsite facility to which the hazardous materials are  
39 manifested pays a facility fee pursuant to Section 25205.2.

1 (B) The amount of hazardous materials transferred to the offsite  
2 facility and recycled there, when deducted from the total tonnage  
3 of hazardous waste generated at the generator's site, results in the  
4 generator becoming eligible for a generator fee that is lower than  
5 the fee paid pursuant to subdivision (a).

6 (C) The hazardous materials transferred to the offsite facility  
7 are not burned in a boiler, industrial furnace, or an incinerator, as  
8 those terms are defined in Section 260.10 of Title 40 of the Code  
9 of Federal Regulations, used in a manner constituting disposal, or  
10 used to produce products that are applied to land.

11 (D) The department certifies, pursuant to subdivision (b) of  
12 Section 25205.9, that funds are available to pay all or part of the  
13 refund.

14 (2) A generator who is eligible for a refund pursuant to  
15 paragraph (1) shall submit an application for that refund to the  
16 board by September 30 following the fiscal year during which the  
17 generator paid the generator fee pursuant to subdivision (a). An  
18 application for a refund postmarked after September 30 is void,  
19 shall not be processed by the board, and shall be returned to the  
20 applicant.

21 (j) (1) The amendment of this section made by Chapter 1125  
22 of the Statutes of 1991 does not constitute a change in, but is  
23 declaratory of, existing law.

24 (2) The amendment of subdivision (a) of this section made by  
25 Chapter 259 of the Statutes of 1996 does not constitute a change  
26 in, but is declaratory of, existing law.